

FILED IN THE U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN 09 2024

SEAN F. MCAVOY, CLERK
_____, DEPUTY
YAKIMA, WASHINGTON

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7 UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF WASHINGTON
9

10 UNITED STATES OF AMERICA,

Case No.: 1:23-CR-02023-MKD

11
12 Plaintiff,

Plea Agreement

13 v.

14 SILAZ ELIJAH JAMES,

15
16 Defendant.
17

18 Plaintiff United States of America, by and through Vanessa R. Waldref,
19 United States Attorney the Eastern District of Washington, and Michael D.
20 Murphy, Assistant United States Attorney for the Eastern District of Washington,
21 and Defendant SILAS ELIJAH JAMES ("Defendant"), both individually and by
22 and through Defendant's counsel, Craig D. Webster, Esq. and Jennifer R. Barnes,
23 Esq., agree to the following Plea Agreement.

24 1. Guilty Plea and Maximum Statutory Penalties

25 Defendant agrees to enter a plea of guilty to Counts 1 and 3 of the
26 Indictment filed on April 18, 2023, which charges him in Count 1 with Second
27 Degree Murder, in violation of 18 U.S.C. §§ 1111, 1153, a Class A felony and in
28

Count 3 with Assault with a Dangerous Weapon in violation of 18 U.S.C. §§ 113(a)(3), 1153, a Class C felony.

Defendant understands that the following potential penalties apply as to Count 1:

- a. a term of imprisonment of up to life;
- b. a term of supervised release of up to 5 years;
- c. a fine of up to \$250,000;
- d. restitution; and
- e. a \$100 special penalty assessment.

Defendant understands that the following potential penalties apply as to Count 3:

- a. a term of imprisonment of up to ten years;
- b. a term of supervised release of up to 3 years;
- c. a fine of up to \$250,000;
- d. restitution; and
- e. a \$100 special penalty assessment.

2. Supervised Release

Defendant understands that if Defendant violates any condition of Defendant's supervised release, the Court may revoke Defendant's term of supervised release, and require Defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, up to the following terms:

- a. 5 years in prison if the offense that resulted in the term of Supervised Release is a class A felony,
- b. 3 years in prison if the offense that resulted in the term of Supervised Release is a class B felony, and/or

- 1 c. 2 years in prison if the offense that resulted in the term of
2 Supervised Release is a class C felony.

3 Accordingly, Defendant understands that if Defendant commits one or more
4 violations of supervised release, Defendant could serve a total term of
5 incarceration greater than the maximum sentence authorized by statute for
6 Defendant's offense or offenses of conviction.

7 3. The Court is Not a Party to this Plea Agreement

8 The Court is not a party to this Plea Agreement and may accept or reject it.
9 Defendant acknowledges that no promises of any type have been made to
10 Defendant with respect to the sentence the Court will impose in this matter.

11 Defendant understands the following:

- 12 a. sentencing is a matter solely within the discretion of the Court;
13 b. the Court is under no obligation to accept any recommendations
14 made by the United States or Defendant;
15 c. the Court will obtain an independent report and sentencing
16 recommendation from the United States Probation Office;
17 d. the Court may exercise its discretion to impose any sentence it
18 deems appropriate, up to the statutory maximum penalties;
19 e. the Court is required to consider the applicable range set forth
20 in the United States Sentencing Guidelines, but may depart
21 upward or downward under certain circumstances; and
22 f. the Court may reject recommendations made by the United
23 States or Defendant, and that will not be a basis for Defendant
24 to withdraw from this Plea Agreement or Defendant's guilty
25 plea.

26 4. Waiver of Constitutional Rights

27 Defendant understands that by entering this guilty plea, Defendant is
28 knowingly and voluntarily waiving certain constitutional rights, including the

1 following:

- 2 a. the right to a jury trial;
- 3 b. the right to see, hear and question the witnesses;
- 4 c. the right to remain silent at trial;
- 5 d. the right to testify at trial; and
- 6 e. the right to compel witnesses to testify.

7 While Defendant is waiving certain constitutional rights, Defendant
 8 understands that Defendant retains the right to be assisted by an attorney through
 9 the sentencing proceedings in this case and any direct appeal of Defendant's
 10 conviction and sentence, and that an attorney will be appointed at no cost if
 11 Defendant cannot afford to hire an attorney.

12 Defendant understands and agrees that any defense motions currently
 13 pending before the Court are mooted by this Plea Agreement, and Defendant
 14 expressly waives Defendant's right to bring any additional pretrial motions.

15 5. Elements of the Offense

16 The United States and Defendant agree that in order to convict Defendant of
 17 Second Degree Murder, in violation of 18 U.S.C. §§ 1111, 1153, the United States
 18 would have to prove the following beyond a reasonable doubt:

- 19 a. *First*, on or about April 13, 2022, within the Eastern District of
- 20 Washington, Defendant unlawfully killed A.M.L.;
- 21 b. *Second*, Defendant killed A.M.L. with malice aforethought;
- 22 c. *Third*, Defendant is an Indian; and
- 23 d. *Fourth*, this happened in Indian Country.

24 To kill with malice aforethought means to kill either deliberately and intentionally
 25 or recklessly with extreme disregard for human life.

26 The United States and Defendant agree that in order to convict Defendant of
 27 Assault with a Dangerous Weapon, in violation of 18 U.S.C. §§ 113(a)(3), 1153,
 28 the United States would have to prove the following beyond a reasonable doubt:

- a. *First*, on or about April 13, 2022, within the Eastern District of Washington, Defendant assaulted unknown victims by using a display of force that reasonably caused them to fear immediate bodily harm;
- b. *Second*, Defendant acted with the intent to do bodily harm to the victims;
- c. *Third*, Defendant used a dangerous weapon;
- d. *Fourth*, Defendant is an Indian; and
- e. *Fifth*, this happened in Indian Country.

6. Factual Basis and Statement of Facts

The United States and Defendant stipulate and agree to the following: the facts set forth below are accurate; the United States could prove these facts beyond a reasonable doubt at trial; and these facts constitute an adequate factual basis for Defendant's guilty plea.

The United States and Defendant agree that this statement of facts does not preclude either party from presenting and arguing, for sentencing purposes, additional facts that are relevant to the Sentencing Guidelines computation or sentencing, unless otherwise prohibited in this Plea Agreement.

On April 13, ²⁰²²~~2024~~, at a residence in Toppenish, Washington, within the Eastern District of Washington and within the exterior bounds of the Yakama Nation, Defendant, Silaz Elijah James, shot A.M.L. with a pistol after an argument over money. Multiple people in the house heard the argument between Defendant and A.M.L. and saw him walk out of the house before turning to fire a single shot, which struck A.M.L. in the chest and killed her. A.M.L. was not armed and was standing just within the front doorway of the residence when Defendant fired the shot from outside the door back into the house.

1 After firing the shot that struck A.M.L., Defendant got into a vehicle with
2 two other people and, as the driver of that vehicle pulled away, fired two shots at
3 persons outside the residence, including N.W., who had followed Defendant out of
4 the residence. Neither of those shots struck anyone. A person in the same position
5 as N.W. would have had a reasonable fear of being struck by a bullet fired by
6 Defendant as the car was being driven away. After leaving the residence,
7 Defendant destroyed the pistol he used. Defendant is an enrolled member of the
8 Yakama Nation and, for that reason and by blood is considered an "Indian" under
9 Federal law. A.M.L. and N.W. are also enrolled members of the Yakama Nation.

10 **7. Admissibility of Facts and Prior Statements**

11 By signing this Plea Agreement, Defendant admits the truth of the facts set
12 forth in the Factual Basis section of this Plea Agreement and agrees that these
13 facts, along with any written or oral statements Defendant makes in court, shall be
14 deemed usable and admissible against Defendant in any subsequent legal
15 proceeding, including criminal trials and/or sentencing hearings, under Federal
16 Rule of Evidence 801(d)(2)(A).

17 Defendant acknowledges, admits, and agrees that by signing this Plea
18 Agreement, Defendant is expressly modifying and waiving Defendant's rights
19 under Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410
20 with regard to any facts Defendant admits and/or any statements Defendant makes
21 in court.

22 **8. The United States' Agreements**

23 The United States Attorney's Office for the Eastern District of Washington
24 agrees that at the time of sentencing, the United States will move to dismiss Counts
25 2 and 4 of the Indictment filed on April 18, 2023, which charges Defendant with
26 Discharging a Firearm During and in Relation to a Crime of Violence, in violation
27 of 18 U.S.C. § 924(c)(1)(A)(i), (ii), (iii).

1 The United States Attorney's Office for the Eastern District of Washington
2 agrees not to bring additional charges against Defendant based on information in
3 its possession at the time of this Plea Agreement that arise from conduct that is
4 either charged in the Indictment or identified in discovery produced in this case,
5 unless Defendant breaches this Plea Agreement before sentencing.

6 9. United States Sentencing Guidelines Calculations

7 Defendant understands and acknowledges that the United States Sentencing
8 Guidelines ("U.S.S.G." or "Guidelines") apply and that the Court will determine
9 Defendant's advisory range at the time of sentencing, pursuant to the Guidelines.
10 The United States and Defendant agree to the following Guidelines calculations.

11 a. Base Offense Level

12 The United States and the Defendant agree that the base offense level for
13 Second Degree Murder is 38. U.S.S.G. § 2A1.2. The United States and the
14 Defendant agree that the base offense level for Assault with a Dangerous Weapon
15 is 14. U.S.S.G. § 2A2.2.

16 b. Special Offense Characteristics

17 The United States and the Defendant do not have any agreement as to any
18 Special Offense Characteristics.

19 c. Acceptance of Responsibility

20 The United States will recommend that Defendant receive a downward
21 adjustment for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a), (b), if
22 Defendant does the following:

- 23 i. accepts this Plea Agreement;
- 24 ii. enters a guilty plea at the first Court hearing that takes
25 place after the United States offers this Plea Agreement;
- 26 iii. demonstrates recognition and affirmative acceptance of
27 Defendant's personal responsibility for Defendant's
28 criminal conduct;

1 iv. provides complete and accurate information during the
2 sentencing process; and

3 v. does not commit any obstructive conduct.

4 The United States and Defendant agree that at its option and on written
5 notice to Defendant, the United States may elect not to recommend a reduction for
6 acceptance of responsibility if, prior to the imposition of sentence, Defendant is
7 charged with, or convicted of, any criminal offense, or if Defendant tests positive
8 for any controlled substance.

9 d. No Other Agreements

10 The United States and Defendant have no other agreements regarding the
11 Guidelines or the application of any Guidelines enhancements, departures, or
12 variances. Defendant understands and acknowledges that the United States is free
13 to make any sentencing arguments it sees fit, including arguments arising from
14 Defendant's uncharged conduct, conduct set forth in charges that will be dismissed
15 pursuant to this Agreement, and Defendant's relevant conduct.

16 e. Criminal History

17 The United States and Defendant have no agreement and make no
18 representations about Defendant's criminal history category, which will be
19 determined by the Court after the United States Probation Office prepares and
20 discloses a Presentence Investigative Report.

21 10. Incarceration

22 The United States and Defendant may recommend any legal sentence.

23 11. Supervised Release

24 The United States and Defendant each agree to recommend 5 years of
25 supervised release. Defendant agrees that the Court's decision regarding the
26 conditions of Defendant's Supervised Release is final and non-appealable; that is,
27 even if Defendant is unhappy with the conditions of Supervised Release ordered by
28 the Court, that will not be a basis for Defendant to withdraw Defendant's guilty

1 plea, withdraw from this Plea Agreement, or appeal Defendant's conviction,
2 sentence, or any term of Supervised Release.

3 The United States and Defendant agree to recommend that in addition to the
4 standard conditions of supervised release imposed in all cases in this District, the
5 Court should also impose the following conditions:

- 6 a. The United States Probation Officer may conduct, upon
7 reasonable suspicion, and with or without notice, a search of
8 Defendant's person, residences, offices, vehicles, belongings,
9 and areas under Defendant's exclusive or joint control.
- 10 b. Defendant shall participate and complete such drug testing and
11 drug treatment programs as the Probation Officer directs.
- 12 c. Defendant shall complete mental health evaluations and
13 treatment, including taking medications prescribed by the
14 treatment provider. Defendant shall allow reciprocal release of
15 information between the Probation Officer and the treatment
16 provider. Defendant shall contribute to the cost of treatment
17 according to the Defendant's ability.

18 12. Criminal Fine

19 The United States and Defendant may make any recommendation
20 concerning the imposition of a criminal fine. Defendant acknowledges that the
21 Court's decision regarding a fine is final and non-appealable; that is, even if
22 Defendant is unhappy with a fine ordered by the Court, that will not be a basis for
23 Defendant to withdraw Defendant's guilty plea, withdraw from this Plea
24 Agreement, or appeal Defendant's conviction, sentence, or fine.

25 13. Mandatory Special Penalty Assessment

26 Defendant agrees to pay the \$200 mandatory special penalty assessment to
27 the Clerk of Court for the Eastern District of Washington, pursuant to 18 U.S.C.
28 § 3013.

1 14. Restitution

2 The United States and Defendant agree that restitution is appropriate and
3 mandatory, without regard to Defendant's economic situation, to identifiable
4 victims who have suffered physical injury or pecuniary loss, pursuant to 18 U.S.C.
5 §§ 3663A, 3664.

6 Pursuant to 18 U.S.C. § 3663(a)(3), Defendant voluntarily agrees to pay
7 restitution for all losses caused by Defendant's individual conduct, in exchange for
8 the United States not bringing additional potential charges, regardless of whether
9 counts associated with such losses will be dismissed as part of this Plea
10 Agreement. With respect to restitution, the United States and Defendant agree to
11 the following:

12 a. Restitution Amount and Interest

13 The United States and Defendant stipulate and agree that, pursuant to 18
14 U.S.C. §§ 3663, 3663A and 3664, the Court should order restitution in an amount
15 no greater than \$10,000, and that any interest on this restitution amount, if any,
16 should be waived.

17 b. Payments

18 To the extent restitution is ordered, the United States and Defendant agree
19 that the Court will set a restitution payment schedule based on Defendant's
20 financial circumstances. 18 U.S.C. § 3664(f)(2), (3)(A). Regardless, Defendant
21 agrees to pay not less than 10% of Defendant's net monthly income towards
22 restitution.

23 c. Treasury Offset Program and Collection

24 Defendant understands the Treasury Offset Program ("TOP") collects
25 delinquent debts owed to federal agencies. If applicable, the TOP may take part or
26 all of Defendant's federal tax refund, federal retirement benefits, or other federal
27 benefits and apply these monies to Defendant's restitution obligations. 26 U.S.C.
28 § 6402(d); 31 U.S.C. § 3720A; 31 U.S.C. § 3716.

1 Defendant understands that the United States may, notwithstanding the
2 Court-imposed payment schedule, pursue other avenues to ensure the restitution
3 obligation is satisfied, including, but not limited to, garnishment of available funds,
4 wages, or assets. 18 U.S.C. §§ 3572, 3613, and 3664(m).

5 Nothing in this acknowledgment shall be construed to limit Defendant's
6 ability to assert any specifically identified exemptions as provided by law, except
7 as set forth in this Plea Agreement.

8 Until Defendant's fine and restitution obligations are paid in full, Defendant
9 agrees fully to disclose all assets in which Defendant has any interest or over
10 which Defendant exercises control, directly or indirectly, including those held by a
11 spouse, nominee or third party.

12 Until Defendant's fine and restitution obligations are paid in full, Defendant
13 agrees to provide waivers, consents, or releases requested by the U.S. Attorney's
14 Office to access records to verify the financial information.

15 d. Notifications and Waivers

16 Defendant agrees to notify the Court and the United States of any material
17 change in Defendant's economic circumstances (e.g., inheritances, monetary gifts,
18 changed employment, or income increases) that might affect Defendant's ability to
19 pay restitution. 18 U.S.C. § 3664(k). Defendant also agrees to notify the United
20 States of any address change within 30 days of that change. 18 U.S.C.
21 § 3612(b)(1)(F). These obligations cease when Defendant's fine and restitution
22 obligations are paid in full.

23 Defendant acknowledges that the Court's decision regarding restitution is
24 final and non-appealable; that is, even if Defendant is unhappy with the amount of
25 restitution ordered by the Court, that will not be a basis for Defendant to withdraw
26 Defendant's guilty plea, withdraw from this Plea Agreement, or appeal
27 Defendant's conviction, sentence, or restitution order.
28

1 15. Payments While Incarcerated

2 If Defendant lacks the financial resources to pay the monetary obligations
3 imposed by the Court, Defendant agrees to earn money toward these obligations by
4 participating in the Bureau of Prisons' Inmate Financial Responsibility Program.

5 16. Additional Violations of Law Can Void Plea Agreement

6 The United States and Defendant agree that the United States may, at its
7 option and upon written notice to the Defendant, withdraw from this Plea
8 Agreement or modify its sentencing recommendation if, prior to the imposition of
9 sentence, Defendant is charged with or convicted of any criminal offense or tests
10 positive for any controlled substance.

11 17. Waiver of Appeal Rights

12 Defendant understands that Defendant has a limited right to appeal or
13 challenge Defendant's conviction and the sentence imposed by the Court.

14 Defendant expressly waives all of Defendant's rights to appeal Defendant's
15 conviction and the sentence the Court imposes.

16 Defendant expressly waives Defendant's right to appeal any fine, term of
17 supervised release, or restitution order imposed by the Court so long as the amount
18 of restitution does not exceed \$10,000.00.

19 Defendant expressly waives the right to file any post-conviction motion
20 attacking Defendant's conviction and sentence, including a motion pursuant to 28
21 U.S.C. § 2255, except one based on ineffective assistance of counsel arising from
22 information not now known by Defendant and which, in the exercise of due
23 diligence, Defendant could not know by the time the Court imposes sentence.

24 Nothing in this Plea Agreement shall preclude the United States from
25 opposing any post-conviction motion for a reduction of sentence or other attack
26 upon the conviction or sentence, including, but not limited to, writ of habeas
27 corpus proceedings brought pursuant to 28 U.S.C. § 2255.

28 18. Withdrawal or Vacatur of Defendant's Plea

1 Should Defendant successfully move to withdraw from this Plea Agreement
2 or should Defendant's conviction be set aside, vacated, reversed, or dismissed
3 under any circumstance, then:

- 4 a. this Plea Agreement shall become null and void;
5 b. the United States may prosecute Defendant on all available
6 charges;
7 c. The United States may reinstate any counts that have been
8 dismissed, have been superseded by the filing of another
9 charging instrument, or were not charged because of this Plea
10 Agreement; and
11 d. the United States may file any new charges that would
12 otherwise be barred by this Plea Agreement.

13 The decision to pursue any or all of these options is solely in the discretion
14 of the United States Attorney's Office.

15 Defendant agrees to waive any objections, motions, and/or defenses
16 Defendant might have to the United States' decisions to seek, reinstate, or reinitiate
17 charges if a count of conviction is withdrawn, set aside, vacated, reversed, or
18 dismissed, including any claim that the United States has violated Double
19 Jeopardy.

20 Defendant agrees not to raise any objections based on the passage of time,
21 including but not limited to, alleged violations of any statutes of limitation or any
22 objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth
23 Amendment.

24 19. Integration Clause

25 The United States and Defendant acknowledge that this document
26 constitutes the entire Plea Agreement between the United States and Defendant,
27 and no other promises, agreements, or conditions exist between the United States
28 and Defendant concerning the resolution of the case.

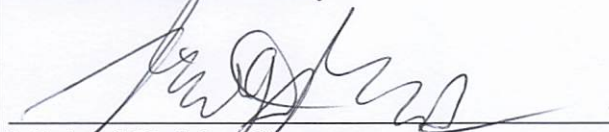
1 This Plea Agreement is binding only on the United States Attorney's Office
2 for the Eastern District of Washington, and cannot bind other federal, state, or local
3 authorities.

4 The United States and Defendant agree that this Agreement cannot be
5 modified except in a writing that is signed by the United States and Defendant.

6
7 Approvals and Signatures

8 Agreed and submitted on behalf of the United States Attorney's Office for
9 the Eastern District of Washington.

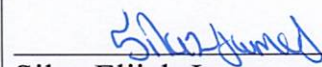
10 Vanessa R. Waldref
11 United States Attorney

12 

13 Michael D. Murphy
14 Assistant United States Attorney

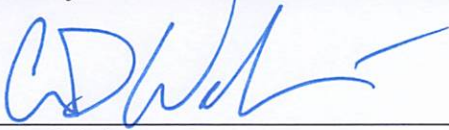
1/9/2024
Date

15
16
17 I have read this Plea Agreement and I have carefully reviewed and discussed
18 every part of this Plea Agreement with my attorney. I understand the terms of this
19 Plea Agreement. I enter into this Plea Agreement knowingly, intelligently, and
20 voluntarily. I have consulted with my attorney about my rights, I understand those
21 rights, and I am satisfied with the representation of my attorney in this case. No
22 other promises or inducements have been made to me, other than those contained
23 in this Plea Agreement. No one has threatened or forced me in any way to enter
24 into this Plea Agreement. I agree to plead guilty because I am guilty.

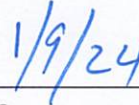
25
26 
27 Silaz Elijah James
28 Defendant

1.9.24
Date

1 I have read the Plea Agreement and have discussed the contents of the
2 agreement with my client. The Plea Agreement accurately and completely sets
3 forth the entirety of the agreement between the parties. I concur in my client's
4 decision to plead guilty as set forth in the Plea Agreement. There is no legal
5 reason why the Court should not accept Defendant's guilty plea.

6 

7 _____
8 Craig D. Webster
9 Jennifer R. Barnes
10 Attorney for Defendant

11 

12 _____
13 Date